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UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF NEVADA

In re:

PAUL A. MORABITO,

Debtor.

Case No.: BK-S-13-51237-GWZ

Chapter: 7

Hearing:

Date: February 4, 2021

Time: 10:00 a.m.

**SUR-REPLY TO REPLY TO OPPOSITION TO MOTION FOR AN ORDER IMPOSING
SANCTIONS AGAINST JEFFREY HARTMAN, ESQ. AND HARTMAN & HARTMAN
AND DAVID HOUSTON, ESQ. AND THE LAW OFFICES OF DAVID R. HOUSTON
PURSUANT TO BANKRUPTCY RULE 9011**

Jeffrey Hartman, Esq., Hartman & Hartman, David Houston, Esq., and the Law Offices of David R. Houston (collectively, “Hartman & Houston”), through their attorneys of record, Kent R. Robison, Esq. and Hannah E. Winston, Esq., of the law offices of Robison, Sharp, Sullivan & Brust, respectfully submit their Sur-Reply to the Reply to Opposition to Motion for an Order Imposing Sanctions Against Jeffrey Hartman, Esq. and Hartman & Hartman and David Houston, Esq. and the Law Offices of David R. Houston Pursuant to Bankruptcy Rule 9011 as follows.

Unfortunately, Mr. Gordon has been mistakenly and inappropriately mischaracterized in Hartman and Houston’s Opposition. The Herbst Parties argue that the undersigned (“Counsel”) has misrepresented material facts to the Court. That is true. Counsel did misrepresent, through a mistake, that Mr. Gordon did something improper. Specifically, Counsel states in the Opposition

1 that:

2 The Herbst Parties argue that Hartman and Houston aver that John Desmond and
3 Gerald Gordon obtained the Abandonment Order and Nondischarge Judgment by
4 defrauding the Court through Gordon's transmission of the BHI 2006 Check
Register. **Hartman and Houston never made that argument.**

5 Rather, Hartman and Houston alleged that Gordon's August 22, 2019 e-mail
6 wherein he sent Hartman and Houston the purported BHI Check Register was the
7 first evidence that corroborated their theory that **Gordon** committed fraud on the
Court in 2010 and that demonstrated Wood fraudulently re-created certain BHI
8 financial statements.

9 Opposition, p. 14 (second emphasis added).

10 Counsel intended to refer to "the Herbst Parties" but mistakenly referred to their counsel,
11 Mr. Gordon. There was never any intention to indicate that Mr. Gordon previously represented
12 the Herbst Parties or that he in any way defrauded the Court. Rather, Counsel was trying to clarify
13 **Hartman and Houston's position** in the Independent Motion and mistakenly referred to Mr.
14 Gordon instead of his client, the Herbst Parties. Mr. Gordon deserves better. Under no
15 circumstances does the undersigned believe or contend that Mr. Gordon ever did anything
16 dishonest or improper. Indeed, the opposite is true. More than a personal and professional
17 apology is warranted.

18 Hartman and Houston's position in the Independent Motion was that Mr. Gordon's August
19 22, 2019 e-mail included an attachment (the BHI check register) that Hartman and Houston
20 thought and has argued was evidence corroborating Mr. Morabito's theory of fraud on the Court
21 perpetrated by the Herbst Parties during trial—not that Mr. Gordon's e-mail itself constituted
22 fraud on the Court. The underlying contention was that Mr. Gordon just provided evidence, not
23 that Mr. Gordon made misrepresentations. The Court deserves better as well.

24 Second, in their Reply, the Herbst Parties criticize Hartman and Houston for not providing
25 a declaration in support of their Opposition. This Court has not identified the February 4, 2021
26 hearing as being an evidentiary hearing. Therefore, any declaration may be improperly self-
27 serving given that opposing party's right to cross examine witnesses would be unavailable.
28 However, if this Court intends to hear evidence, Hartman and Houston will call Mr. Hartman to

CERTIFICATE OF SERVICE

Pursuant to FRBP 7005 and FRCP 5(b), I certify that I am an employee of Robison, Sharp, Sullivan & Brust, that I am over the age of 18 and not a party to the above-referenced case, and that on the date below I caused to be served a true copy of the **SUR REPLY TO REPLY TO OPPOSITION TO MOTION FOR AN ORDER IMPOSING SANCTIONS AGAINST JEFFREY HARTMAN, ESQ. AND HARTMAN & HARTMAN AND DAVID HOUSTON, ESQ. AND THE LAW OFFICES OF DAVID R. HOUSTON PURSUANT TO BANKRUPTCY RULE 9011** on all parties to this action by the method(s) indicated below:

X I hereby certify that on the date below, I electronically filed the foregoing with the Clerk of the Court by using the ECF system which served the following parties electronically:

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26 HINCKLEY INDUSTRIES, JH, INC., MARYANNA HERBST,
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14 DATED: This 21st day of January, 2021.

15 /s/ V. Jayne Ferretto
16 Employee of Robison, Sharp, Sullivan & Brust
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